

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 820 Department or Agency Office of the Secretary of State
Rule No. 820-2-4-09
Rule Title: Procedures for Amendment of Certifications of Candidates by Political Parties
 New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Charles E. Dringey, Jr.
Date July 21, 2003

(DATE FILED)
(STAMP)

REC'D & FILED

JUL 21 2003

LEGISLATIVE REF SERVICE

APA-2
11/96

OFFICE OF THE SECRETARY OF STATE

NOTICE OF INTENDED ACTION

AGENCY NAME: Office of the Secretary of State

RULE NO.S & TITLES:

820-2-4-.09 **Procedures for Amendment of Certifications of
Candidates by Political Parties**

INTENDED ACTION: Amend Chapter 820-2-4 (Ballot Access) in order to formalize the practice of amending certifications of candidates by political parties.

SUBSTANCE OF PROPOSED ACTION:

There has been a long-standing practice of amending certifications of candidates by political parties for a variety of reasons. Examples include misspellings of candidate names; withdrawal of candidacy by the candidate; and disqualification of a candidate subsequent to the certification. This practice is due to be formalized by rule and submitted for preclearance by the U.S. Dept. Of Justice.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Views may be presented in writing to the contact person below or orally if requested in advance by personally appearing at Room E-201, Alabama State Capitol, Montgomery, AL, at 10:00 a.m., Friday, September 12, 2003.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 12, 2003.

CONTACT PERSON AT AGENCY: Chuck Grainger.



(Signature of officer authorized to promulgate and adopt rules or his or her deputy)

STATE OF ALABAMA
THE OFFICE OF THE SECRETARY OF STATE

RULE 820-2-4-.09
PROCEDURES FOR AMENDMENT OF CERTIFICATIONS OF CANDIDATES
BY POLITICAL PARTIES

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820-2-4-.09 Procedures for Amendment of Certifications of Candidates by Political Parties.

(1) The following definitions are applicable to this Rule:

(a) "Certification of candidates" means a written listing provided by a political party of candidates legally qualified and entitled to appear on the ballot in a primary, special or general election.

(b) "Political party" is an organization of qualified electors seeking to elect candidates to public office and meeting the requirements of Sections 17-8-2.1, Code of Alabama (1975) or 17-16-2, Code.

(c) "Amendment of certification" means a written modification of a previously submitted certification of candidates submitted before or after a deadline for submitting a certification of candidates but, unless otherwise provided by law or order of a court of competent jurisdiction, prior to the printing of ballots in support of absentee voting.

(2) The following findings of fact and law are made in support of this rule:

(a) The Secretary of State finds that a long-standing practice of permitting amendments to certifications has functioned to correct and modify certifications of candidates by political parties. These amendments are designed to correct errors in certifications (such as name spellings and the office sought) and exercise the authority of the political party in determining candidates for office through correcting omissions, disqualifications, and the filling of vacancies.

(b) Generally, political parties will certify candidates for a primary election or nominees for the general election. Due to the brief time frames often involved and the scope of the political party's responsibility, errors in the certifications and a variety of other changes may compel changes to the certification. Examples include misspelled names, subsequent withdrawal of candidates and subsequent disqualification of candidates. Amending the certification provides

a formal process consistent with practice which ensures the accuracy of the ballot.

(c) While silent on a procedure for amending certifications of candidates, Alabama's statutes providing for certifications of candidates are not in conflict with an opportunity to amend such certifications.

(d) The deadline for amending certifications, as a practical matter, occurs when the ballots for a particular race have been printed.

(3) Election officials are authorized to submit, accept and otherwise act on amendments to certifications of candidates to the full extent permitted by the circumstances or until the applicable ballots are printed, whichever occurs first.

Author: Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §17-4-250 (a); § 1 of Act No. 03-313; Attorney General Opinion No. 97-00109.

History: New Rule: Notice of Intended Action Filed July 21, 2003.